

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
WILFRIDO N ARDON SALVAJAN, :
:
Plaintiff, :
-v- :
: 24cv794 (DLC)
U.S. CITIZENSHIP AND IMMIGRATION :
SERVICES, et al., : ORDER
:
Defendants. :
:
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DENISE COTE, District Judge:

This action was filed on February 2, 2024. An Order of April 4 directed the plaintiff to show cause why this action should not be dismissed for failure to comply with Fed. R. Civ. P. 4(i). On April 8, 2024, the plaintiff filed his response to the April 4 Order, stating that he had served U.S. Citizenship and Immigration Services by certified mail. The plaintiff, however, failed to serve the United States pursuant to Rule 4(i)(1) and Rule 4(i)(2), Fed. R. Civ. P.

The plaintiff was again directed to show cause by an Order of April 8. On April 12, the plaintiff filed his response, arguing that Rule 4(i)(1) does not apply to this action because the United States is not a defendant named herein.

Rule 4(i)(2) states “[t]o serve a United States agency or corporation, or a United States officer or employee sued only in an official capacity, a party must serve the United States and

also send a copy of the summons and of the complaint by registered or certified mail to the agency, corporation, officer, or employee." Fed. R. Civ. P 4(i)(2) (emphasis added).

In order to serve the United States, the plaintiff was required to

(A) (i) deliver a copy of the summons and of the complaint to the United States attorney for the district where the action is brought -- or to an assistant United States attorney or clerical employee whom the United States attorney designates in a writing filed with the court clerk -- or

(ii) send a copy of each by registered or certified mail to the civil-process clerk at the United States attorney's office;

and

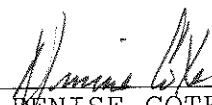
(B) send a copy of each by registered or certified mail to the Attorney General of the United States at Washington, D.C.

Fed. R. Civ. P. 4(i)(1) (emphasis added).

The plaintiff has failed to properly serve the United States. The plaintiff asks for a reasonable opportunity to cure. It is hereby

ORDERED that the plaintiff shall serve the United States by May 1, 2024 or this case shall be dismissed without prejudice.

Dated: New York, New York
April 16, 2024


DENISE COTE
United States District Judge